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Supreme Court, U.S.
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No. 10-278

IN THE
Supreme Court of the United States

EDUCATIONAL MEDIA COMPANY AT VIRGINIA TECH, INCORPORATED; CAVALIER DAILY, INCORPORATED,
PETITIONERS,

v.

SUSAN R. SWECKER, COMMISSIONER, VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION; PAMELA O'BERRY EVANS, COMMISSIONER, VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION; W. CURTIS COLEBURN, III, CHIEF OPERATING OFFICER VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL; FRANK MONAHAN, DIRECTOR, LAW ENFORCEMENT BUREAU OF THE VIRGINIA DEPARTMENT OF ALCOHOLIC CONTROL; ESTHER H. VASSAR, COMMISSIONER, VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION,
RESPONDENTS.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF OF *AMICI CURIAE* ASSOCIATION OF NATIONAL ADVERTISERS, INC., AMERICAN ADVERTISING FEDERATION, AND AMERICAN ASSOCIATION OF ADVERTISING AGENCIES IN SUPPORT OF PETITIONERS

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

INTERESTS OF *AMICI CURIAE* 1

STATEMENT 2

SUMMARY OF THE ARGUMENT 3

ARGUMENT 3

I. THE TREND OF THE CASES IS TO EXPAND PROTECTION FOR COMMERCIAL SPEECH 4

II. THE FOURTH CIRCUIT'S INCONSISTENT RULING RAISES SIGNIFICANT QUESTIONS ABOUT COMMERCIAL SPEECH DOCTRINE. 7

CONCLUSION 10

Cf. Pitt News, 379 F.3d at 101, 108 ("more than 67% of Pitt students and more than 75% of the total University population is over the legal drinking age"). Thus, review by this Court is essential in this case not only to address the vital issues raised by the Petition for *Certiorari*, but also those it implicates relating to restrictions on the ability of advertisers to reach young-adult consumers.

This case also offers an important opportunity to clarify the role "common sense" may play in *Central Hudson* direct-and-material-advancement analyses. The Third Circuit demanded evidence of direct and material advancement in *Pitt News*, *see*, 379 F.3d at 107, but *Educational Media* allows resort to nothing more than "history, consensus and common sense" to support restrictions on speech. Pet. at 10-15. This divergence by the circuit courts also should be remedied by granting review here.

CONCLUSION

For the foregoing reasons, *amici* Advertising Associations respectfully request that the Court grant the Petition for *Certiorari*.

Respectfully submitted,

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